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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,561	02/06/2004	Masaki Hoshina	81754.0108	3563
26/021 7590 01/11/2010 HOGAN & HARTSON L.L.P. 1999 AVENUE OF THE STARS SUITE 1400 LOS ANGELES, CA 90067				
EXAMINER NWUGO, OJAKO K				
ART UNIT		PAPER NUMBER		
2612				
NOTIFICATION DATE		DELIVERY MODE		
01/11/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ctkeyner@hhlaw.com  
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# Office Action Summary

## Application No.

10/773,561

## Applicant(s)

HOSHINA, MASAKI

## Examiner

OJIAKO NWUGO

## Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 3 and 18 is/are allowed.
- 6) ☒ Claim(s) 1, 5, 7-9, 11-16 and 19 is/are rejected.
- 7) ☐ Claim(s) 2, 4, 6, 10, 17, 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

**Claims 1-20 are pending.**

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The claimed inventions in **claims 11,12,13,14, 15** are directed to a non-statutory subject matter. The claimed limitation of a program without the associated medium in which it is embodied makes the claimed invention non-statutory.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 1** is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the complimentary elements to the positional relationship. The positional relationship information limitation makes an inherent suggestion of more than one entity/data sets in a relationship, as such while the received positional information is in the limitation, there is no limitation of complimentary positional data set for which a relationship is being claimed.

**Claim 5** is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the complimentary elements to the positional relationship. The positional relationship information limitation makes an inherent suggestion of more than one entity/data sets in a relationship, as such while the received positional information is in the limitation; there is no limitation of complimentary positional data set for which a relationship is being claimed.

**Claim 7** is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the complimentary elements to the positional relationship. The positional relationship information limitation makes an inherent suggestion of more than one entity/data sets in a relationship, no entities/data sets are included in the limitation for which a relationship is being claimed.

**Claim 9** is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the utility of transmitting positional information to a tag e.g. to be displayed.

**Claim 19** is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the complimentary elements to the positional relationship. The positional relationship

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information limitation makes an inherent suggestion of more than one entity/data sets in a relationship and means for acquiring such data, no entities/data sets or means for acquiring such are included in the limitation for which a relationship is being claimed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 8, 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuang US 20050122221 in view of Rajasekharan US 20030024975.

Regarding **Claim 8**, Chuang discloses in figs 1, 2 and ¶s 12-15 in light of the abstract means for transmitting data that transmits an electromagnetic wave for providing power and transmitting information of the data communications device to a contact-free identification tag in a surrounding area of the data communications device.

Chuang makes no explicit disclosure a data communication device with means of acquiring its position data and transmitting. Rajasekharan discloses in fig. 3 and ¶s 60-61 in light of fig. 1 and ¶s 41-45 a data communication device that transmits its positional information to the tag.

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It would have been obvious for one of ordinary skill in the art at the time of the invention to include the positional data of Rajasekharan into Chuang for labeling locations as taught by Rajasekharan.

Regarding **Claim 16**, Chuang discloses in ¶s 44, 49, 56 and 67 a mobile device 105 with a display that acquires its own positional information.

However Chuang makes no explicit disclosure of displaying positional information.

It would have been obvious for one of ordinary skill in the art at the time of the invention to display the positional of Chuang for visual position confirmation.

#### ***Allowable Subject Matter***

**Claims 3, 18** allowed.

**Claims 2, 17, 4, 6, 10, 20** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJIAKO NWUGO whose telephone number is (571)272-9755. The examiner can normally be reached on M - F 7.30am - 5.00pm EST, Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin Lee can be reached on (571) 272 2963. The

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fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OKN